

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
P.C. 08/11/04 Item: 7.a.  
C.C. 09/21/04 Item:

File Number  
PDC04-001

Application Type  
Planned Development Rezoning

Council District  
4

Planning Area  
Berryessa

Assessor's Parcel Number(s)  
244-20-002, 014, 037, 038

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: David Tymn

Location: Southwest corner of Lundy Avenue and McKay Drive

Gross Acreage: 17.38

Net Acreage: 14.09

Net Density: 21.6 DU/AC

Existing Zoning: IP-Industrial Park

Existing Use: Vacant research and development facilities and vacant land.

Proposed Zoning: A(PD) Planned Development

Proposed Use: Up to 304 single-family attached and multi-family attached residential units.

### GENERAL PLAN

Completed by: DT

Land Use/Transportation Diagram Designation  
Industrial Park

Project Conformance:  
[ ] Yes [x] No  
[x] See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: DT

North: Industrial Park, Research and Development

IP-Industrial Park

East: Post Office

A-Agriculture

South: Industrial Park and vacant residential

IP-Industrial Park, A-Agriculture

West: Church and Single-family residential

A-Agriculture, A(PD)

### ENVIRONMENTAL STATUS

Completed by: DT

☒ Environmental Impact Report to be heard on August 11, 2004  
☐ Negative Declaration circulated on  
☐ Negative Declaration adopted on July 31, 2003

☐ Exempt  
☐ Environmental Review Incomplete

### FILE HISTORY

Completed by: DT

Annexation Title: Orchard No. 119, 130, 147

Date: 12/12/1983, 4/18/1986, 1/26/1999

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval  
☐ Approval with Conditions  
☐ Denial  
☐ Uphold Director's Decision

Date:

Approved by: \_\_\_\_\_  
☐ Action  
☒ Recommendation

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**APPLICANT/DEVELOPER**

The Riding Group  
Kendall Riding  
99 Almaden Blvd. #200  
San Jose CA 94113

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**OWNER**

Sobrato Interests  
10600 N. De Anza Blvd.  
Cupertino, CA 95014

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: DT

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**Department of Public Works**

Please see attached memorandum.

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**Other Departments and Agencies**

Please see attached memorandum from the Fire Department, The Santa Clara Valley Water District, Environmental Services Division, Valley Transportation Agency, Police Department, and the Orchard School District.

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**GENERAL CORRESPONDENCE**

Please see attached letters.

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**ANALYSIS AND RECOMMENDATIONS**

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## **BACKGROUND**

On January 5, 2004, the applicant, The Riding Group, filed a Planned Development zoning application for the subject 17.38-acre site. This rezoning application is being considered in conjunction with a General Plan amendment request (GP03-04-04), to change the Land Use/Transportation Diagram designation from Industrial Park to Medium High Density Residential (12-25 DU/AC).

### **Project Description**

The applicant, The Riding Group, is requesting a Planned Development rezoning of a 17.38-acre site located on the southwest corner of Lundy Avenue and McKay Drive (1240 and 1290 McKay Drive and 1750 Ringwood Avenue) to allow single-family attached and multi-family attached residential development at a net density of 21.6 dwelling units per acre.

The proposed zoning would allow up to 304 residential units. The conceptual designs for the units include two and three-story town homes with attached two-car garages, and private open space in the form of patios, and, two, three and four story multi-family podium buildings with below-grade one and two car garages and open space in the form of common areas and private patios and balconies. The units range in size from 1,200 to 1,900 square feet in floor area. Buildings will be set back a minimum of approximately 67 feet from the

site boundary adjacent to industrial uses. Parking will be permitted on all internal public streets as well as both sides of McKay Drive.

### **Site and Surrounding Uses**

The proposed project site consists of four parcels. Three of the parcels are developed with two unoccupied research and development buildings (currently vacant), which include parking lots and landscaping, and the fourth parcel is a vacant, unimproved lot.

The site is located on the southwest corner of Lundy Avenue and McKay Drive. Lundy Avenue is a minor Arterial (80-106 ft.), providing vehicular access to much of the larger industrial area in north San Jose. Uses adjacent to the site include existing industrial park, research and development businesses to the north, the San Jose main branch post office facilities to the east, industrial park uses located in five buildings, and existing unoccupied residence on a large lot to the south, and a small church, and single-family detached and single-family attached residential units to the west.

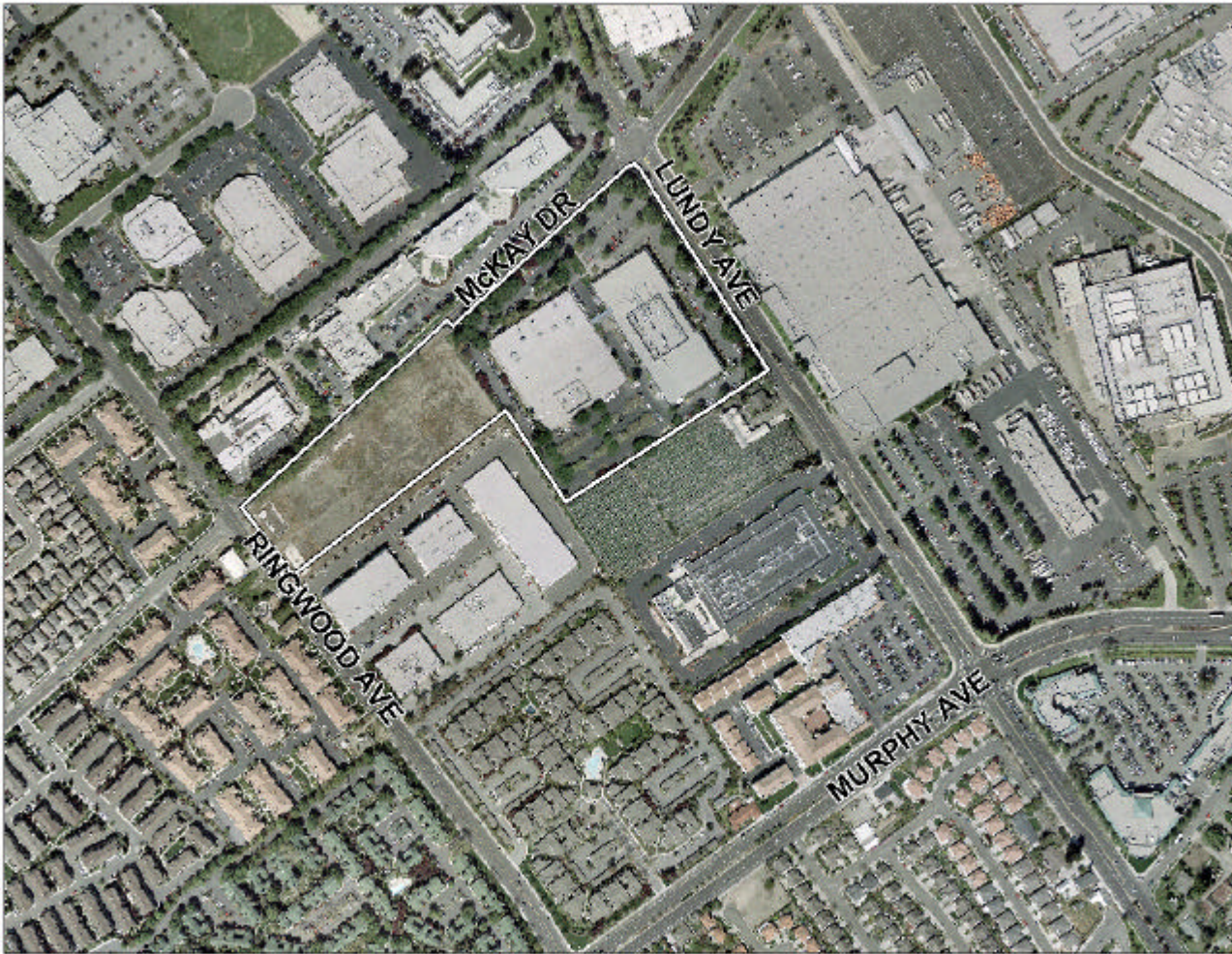
### **GENERAL PLAN CONFORMANCE (Refer to Planning Staff Report for GP03-04-04 included in packet)**

The subject property currently has a designation of Industrial Park on the General Plan Land Use/Transportation Diagram. The proposed single-family attached and multi-family attached project does not conform to the current General Plan designation. The applicant has filed a General Plan Amendment requesting conversion of the subject property from Industrial Park to Medium High Density Residential (12-25 DU/AC). Should the General Plan Amendment (GP03-04-04) be approved, the proposed rezoning would be consistent with the density range of the new General Plan Land Use/Transportation Diagram designation.

The General Plan includes land use policies that can be used to mitigate significant environmental impacts related to incompatible uses. Mitigation measures include restricting the placement sensitive receptors near existing industrial uses, and identifying areas in the City that would be most suitable for compatible non-industrial uses through the addition of Mixed Overlay Districts. The proposed residential conversion is not consistent with these General Plan policies and will result in a significant land use impact as identified in the Environmental Impact Report. (See Analysis Below)

### **ENVIRONMENTAL REVIEW**

An Environmental Impact Report (EIR), *entitled Lundy Avenue/ McKay Drive Residential Project General Plan Amendment and Planned Development Rezoning*, was prepared for the proposed project and provides both a program level and project level environmental review appropriate to address and evaluate the environmental impacts of the project appropriate for the adoption of the proposed General Plan amendment and PD rezoning. The Draft EIR (DEIR) was circulated from May 27 to July 12, 2004 for public review and comment on the adequacy of the environmental review during this time period.



The DEIR analyzed the project and its environmental setting, identified potentially significant environmental impacts, and proposed mitigation measures to reduce significant impacts to less than significant levels where possible, for the following issues:

- |  |                                   |
|--|-----------------------------------|
| 1. Land Use                              | 9. Cultural Resources             |
| 2. Transportation                        | 10. Utilities and Service Systems |
| 3. Noise                                 | 11. Energy                        |
| 4. Hydrology, Drainage and Water Quality | 12. Public Services               |
| 5. Biological Resources                  | 13. Growth Inducing Impacts       |
| 6. Hazardous Materials                   | 14. Cumulative Impacts            |
| 7. Air Quality                           | 15. Agricultural Resources        |
| 8. Geology and Soils                     |                                   |

The DEIR identifies as “Less Than Significant with Mitigation” issues regarding Noise, Hydrology, Drainage and Water Quality, Biological Resources, Transportation, Visual and Aesthetics, Hazardous Materials, Geology and Soils, Agricultural Resources and Cultural Resources. “Less Than Significant with Mitigation”

assumes that the impacts of the proposed project will not exceed the significance thresholds contained in the DEIR given the mitigation measures included in the project.

“Significant Unavoidable Impact” assumes that impacts of the project would exceed the significance thresholds even with changes or mitigation included in the project. The DEIR identifies as “Significant Unavoidable Impact” issues regarding Land Use and Air Quality. The DEIR identifies as “Significant Unavoidable Cumulative Impact” issues regarding Air Quality, Land Use include Cumulative Land Use, Cumulative Land Use impacts include: 1) the worsening of the City’s jobs/housing imbalance and 2) decreasing the ability of the City to provide and maintain public services and facilities.

### Project Impacts

The EIR concluded that the proposed General Plan amendment and rezoning would result in two significant unavoidable impacts at a project level: land use and air quality. Implementation of the proposed General Plan amendment on the site could result in future limitations being placed on existing industrial development in the area. This could impact the viability of the larger industrial area and could place pressure on the larger area to be converted to residential uses. These impacts reinforce the inconsistency with proposed amendment with General Plan policies.

The second significant, unavoidable impact is to air quality. The air quality impacts of the proposed General Plan amendment exceed the projections in the 2000 Clean Air Plan (CAP). The proposed amendment causes a technical inconsistency, because it would increase the population base beyond that assumed in the 2000 CAP. If a project is inconsistent with the population projections, it must be considered to have a potentially significant impact on regional air quality under the Bay Area Air Quality Management District threshold standards.

### Cumulative Impacts

Cumulative impacts, as defined by CEQA, refer to two or more individual effects, that when combined, are considerable, or that compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant projects taking place over time. The purpose of the cumulative analysis is to allow decision makers to understand better the potential impacts that might result from approval of past, present, and reasonably foreseeable future projects, in conjunction with the proposed project.

Additionally, the EIR concludes that the proposed amendment would have a significant, unavoidable cumulative impact on public services and facilities. The conversion of industrial lands to residential uses from the cumulative General Plan amendments could have a significant cumulative impact on public services and the proposed project could significantly contribute to this impact.

As discussed earlier, the proposed project results in a significant, unavoidable air quality impact. This impact will exist until the ABAG projections are updated to include the revised land use designations, and the regional air quality plan is updated to reflect those projections. The cumulative effect of approving and implementing all proposed General Plan amendments would add dwelling units not included in the Clean Air Plan. The proposed land use amendment for the site will contribute to the cumulatively considerable impacts on regional air quality.

## Project Alternatives

The EIR, as required by CEQA, identifies alternatives to the project. The EIR evaluated a “no project” alternative, a location alternative, and a project design alternative. The “no project” alternative assumes redevelopment of the site with industrial uses, which would result in fewer land use, air quality, traffic, and noise impacts, but would not meet the project objectives of developing new residences. The EIR also evaluated a “project design” alternative, which included fewer units and a revised street plan, which could reduce traffic, noise and land use impacts by providing additional buffering for the residences from industrial uses, and meet the project objective to develop new residences. Although the significant unavoidable air quality and land use impacts would remain the same as the proposed project, the “project design” alternative was determined to be the environmentally superior alternative when compared to the proposed project.

## **ANALYSIS**

The primary issues associated with the proposed rezoning are: 1) Land Use Compatibility, and 2) Conformance to the Residential Design Guidelines.

### **Land Use Compatibility**

In determining land use compatibility, two factors are considered: 1) the potential impact from the proposed project upon adjacent uses, and 2) the potential impact from the project’s surroundings upon the project itself. Potential incompatibility may result from the placement of a particular type of use at an inappropriate location, or from some aspect of the project’s design.

### Impacts of Residential Development on Adjacent Industrial Uses

The proposed single-family attached and multi-family attached residential project is incompatible with the industrial land uses which are the predominate use in the immediate vicinity. Complaints by residents could result in limitations on current businesses as well as those that presently do not exist in the area. Restrictions placed on the operations on existing and future businesses could impact the viability of this employment area for future economic development. Recent experience in other transition areas in North San Jose has proved problematic and resulted in inadequate buffering between conflicting land uses. The Draft EIR for the General Plan amendment concludes that the proposed change in the General Plan land use designation of the site and proposed specific development project could result in restrictions on the existing industrial businesses in the area, which could impact their viability.

In addition, these uses are currently permitted to operate on a 24-hour basis, although outdoor uses within 150 feet of residential uses are restricted to the hours of 6 AM to Midnight. Approving residential uses at this location would likely result in additional restrictions placed upon the existing industrial uses.

### Impacts of existing industrial uses on the proposed residential

The industrial uses currently permitted within this area surrounding the project site typically include outdoor activity, truck use, loading and unloading, hazardous materials use and storage, and other operations that may emit odors, dust, and noise at levels that could have negative impacts on nearby residential neighborhoods. The subject property has industrial park uses to the north and south, and it is subject to impacts from existing noise levels, the use of hazardous materials on nearby sites, dust, litter, noise, unsightly outdoor storage, and



the use of hazardous materials, which are all aspects of industrial uses that can be incompatible with residential land uses.

In summary, this Planned Development rezoning proposes to place residential uses in a predominantly industrial area, which could place undue hardships on the industrial uses, and will likely subject residents to noise, air quality, and traffic impacts from the surrounding uses. By placing new residential uses in an industrial area, staff believes there will be limited protection from the activities of the existing uses. Both the *Residential Design Guidelines* and the *Industrial Design Guidelines* identify design techniques to help mitigate impacts resulting from a residential/industrial interface. However, the nature of the uses would still likely result in negative impacts. Industrial developments could create an environment inconsistent with the setting desirable for residential development, and could jeopardize neighborhood stability.

### **Conformance with the Residential Design Guidelines**

The proposed single-family attached and multi-family attached residential rezoning to allow up to 304 units is generally consistent with the Residential Design Guidelines. The proposed units gain access from public streets and private drives and parking on the public streets. The proposed units meet the Guidelines' intent for perimeter setback minimum dimensions as well as for internal building separations. A 1.25-acre "turn key" public park is proposed be constructed by the developer and then dedicated to the city. The park is located centrally within the proposed development, fronting on McKay Drive, which provides easy access from McKay Drive as well as from private and public streets within the project. The design of the park will be further reviewed at the Planned Development permit stage. The street improvements on McKay Drive are designed with 10-foot wide sidewalks to provide adequate pedestrian travel way to the park while providing a buffer from vehicular traffic. Street improvements on McKay Drive will allow parking on both sides of the street, which should encourage park use by a variety of residents in the area.

The site plan was configured to place a public street on the south edge of the project so as to add additional separation from the industrial park uses to the south and also to provide future public street access to the parcels to the south should further conversion of industrially designated properties occur southerly of the project site.

Although the design of the units is conceptual at the Planned Development zoning stage, the applicant proposes to construct townhouse and podium buildings that include a varied mix of architectural projections and accents. The four-story height of the podium buildings appropriately transitions from two stories to four stories to the midpoint of the building. All townhouse units and podium units have individual garage spaces. The overall number of proposed parking is in conformance with the Residential Design Guidelines, and the project will conform to the Zoning Ordinance requirements for bicycle and motorcycle parking required for high-density residential development.

### **Conclusion**

Should there be a change in the General Plan land use designation for this site as requested by the applicant (GP03-04-04) for residential development at this location, then the project as proposed is designed in a way that integrates as best as possible with the surrounding industrial uses. High-density townhouse and podium style development provide higher density residential near existing employment opportunities and neighborhood serving commercial, as well as provide more appropriate separation from adjacent, potentially incompatible uses, than would a lower density proposal. The project is consistent with the Residential Design

Guidelines, provides adequate setbacks, private and public open space, parking and is providing a “turn key” public park for the area residents.

### **PUBLIC OUTREACH**

Notices for the Environmental Impact Report, General Plan amendment and the Planned Development zoning public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City web site. Staff has been available to discuss the project with members of the public.

On July 1, 2004, the Riding Group/ Morley Bros. LLC (the applicant for the proposed Planned Development zoning) held a community meeting to discuss the proposed land use change and proposed 304-unit residential development. Four community members expressed their general support for the proposed housing. No comments in opposition were received.

### **RECOMMENDATION**

Planning staff recommends approval of the proposed rezoning, if the General Plan Land Use/Transportation Diagram is changed from Industrial Park to Medium High Density Residential (12-25 DU/AC).